

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

KENNETH JACKSON	§	
v.	§	CIVIL ACTION NO. 6:07cv524
DIRECTOR, TDCJ-CID	§	

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE
AND ENTERING FINAL JUDGMENT

The Petitioner Kenneth Jackson, proceeding *pro se*, filed this application for the writ of habeas corpus complaining of the legality of his confinement. This Court ordered that the case be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

Jackson says that he was originally convicted in Tarrant County of aggravated assault with a deadly weapon, receiving a 26-year sentence, and that he has another sentence to serve from the U.S. District Court for the Northern District of Texas. He makes reference to a prison disciplinary case which he received in August of 2006, for which he says that he lost 855 days of good time. The sole ground for relief presented in the original petition stated that “confining inmates to prison control unit as punishment for an offense or for no reason at all would violate substantive due process.”

On November 16, 2007, the Magistrate Judge ordered Jackson to file an amended complaint, setting forth his claims with more factual specificity as provided in Rule 2(c) of the Rules Governing Section 2254 Proceedings in the United States District Courts. Jackson filed an amended petition on December 18, 2007, but wholly failed to set out any factual grounds; instead, he paraphrased the Fourth Amendment and asserted that “the degree of constitutional protection to

afforded to convicted prisoners must be measures against the demanding requirements placed on [illegible] prison system.” Jackson attached a “memorandum” to his petition, which memorandum consisted of handwritten copies of statutes, summons forms, waiver of service forms, *in forma pauperis* and other appellate rules, a summons to the Director of TDCJ, and a request for waiver of service. The memorandum contains no grounds for relief or facts in support thereof.

On January 10, 2008, the Magistrate Judge issued a Report recommending that the petition be dismissed with prejudice. The Magistrate Judge observed that the sole ground for relief which arguably can be discerned from Jackson’s pleadings asserts that inmates cannot be placed in a “prison control unit” even as punishment, but that this is not an accurate statement of the law. Consequently, the Magistrate Judge recommended that the petition be dismissed with prejudice and that Jackson be denied a certificate of appealability *sua sponte*.

Jackson received a copy of this Report on or before January 17, 2008, but filed no objections thereto; accordingly, he is barred from *de novo* review by the district judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to factual findings and legal conclusions accepted and adopted by the district court. Douglass v. United Services Automobile Association, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

The Court has reviewed the pleadings in this case and the Report of the Magistrate Judge. Upon such review, the Court has concluded that the Report of the Magistrate Judge is correct. It is accordingly

ORDERED that the Report of the Magistrate Judge is hereby ADOPTED as the opinion of the District Court. It is further

ORDERED that the above-styled application for the writ of habeas corpus be and hereby is DISMISSED with prejudice. It is further

ORDERED that the Petitioner Kenneth Jackson be and hereby is DENIED a certificate of appealability *sua sponte*. Finally, it is

ORDERED that any and all motions which may be pending in this action are hereby
DENIED.

SIGNED this 13th day of February, 2008.



MICHAEL H. SCHNEIDER
UNITED STATES DISTRICT JUDGE